

E-FILED 4/3/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

EDWARD J. QUINONEZ,

NO. CV 06-06569 JF (RS)

Plaintiff,

**ORDER GRANTING MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS AND ADDITIONAL
DEPOSITION**

v.

USA WASTE OF CALIFORNIA, INC. dba
WASTE MANAGEMENT, INC.,

Defendant.

I. INTRODUCTION

Defendant, U.S.A. Waste of California, Inc. ("WM") moves to compel plaintiff, Edward J. Quinonez, (1) to produce documents related to a separate piece of litigation between Quinonez and Browning-Ferris Industries, Inc. ("BFI"), another waste management company, and (2) to appear for two more hours of deposition. Quinonez opposes the motion. Pursuant to Local Rule 7-1 (b), the court finds this matter suitable for determination without oral argument. The motion is granted for the reasons set out below.

II. BACKGROUND

Quinonez brings suit against WM for allegedly terminating his employment due to his past and possible future military service. Quinonez alleges that WM's conduct violated the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA) codified at 38 U.S.C. § 4301, et seq. The USERRA protects military service personnel from employment termination for one year after active duty discharge, absent cause.

1 WM moves to compel a further production of documents in response to its Document
2 Request No. 41, which calls for: "Any and all documents or pleadings which relate or refer to the
3 litigation entitled Edward Quinonez v. Browning-Ferris Industries, Inc." The record is not entirely
4 clear, but it appears that Quinonez may be withholding only one document, namely a settlement
5 agreement he entered into with BFI.

6 III. DISCUSSION

7 Quinonez argues that WM has not shown good cause to obtain the BFI case files that
8 Quinonez has in his possession. He further argues that WM has had ample time to obtain the
9 employment records from BFI and that the documents in question are privileged and protected
10 under attorney-client confidentiality. Lastly, Quinonez attempts to avoid production by arguing
11 that the information WM is seeking is irrelevant to WM's particular defenses in this action.

12 The documents at issue shall be produced. The settlement agreement between Quinonez
13 and BFI is not privileged. Any provision by which the parties to the agreement agreed to keep its
14 terms confidential does not preclude a court from ordering its production where relevant in other
15 litigation, as it is here. Additionally, Quinonez has waived any objections due to his untimely
16 responses. As to WM's request to exceed the presumptive seven hour deposition time limit for
17 Quinonez's deposition by two hours, that time limit is subject to extension upon a showing of good
18 cause. Here, in light of this order requiring further document production and the fact that the
19 deposition is of the named plaintiff, a two hour extension is both reasonable and warranted.

20 Good cause appearing therefor, the motion is GRANTED. Quinonez shall produce all
21 responsive documents relating to the BFI suit in his possession, custody, or control within 20 days
22 of the date of this order. Further, Quinonez shall appear for an additional two hours of deposition.

23
24 IT IS SO ORDERED.

25 Dated: April 3, 2008

26 
27 RICHARD SEEBORG
28 United States Magistrate Judge

THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER HAS BEEN GIVEN TO:

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Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the Court's CM/ECF program.

Dated: 4/3/08

Richard W. Wieking, Clerk

By: Chambers

ORDER
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